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## Title I

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# Agricultural Market Transition Act\*

Linwood Hoffman

The 1996 Act provides income support and commodity loans to landowners and agricultural producers for crop years 1996 through 2002, while changing the income support system that has been used in some form from 1974 to 1995. The previous income support system, based on established (target) prices and deficiency payments, is replaced by a series of annual payments whose levels are unrelated to current market prices or production levels. Most acreage use restrictions from previous law have not been continued, so grain, cotton, and rice producers will have almost complete flexibility to produce any crop on their land and still receive income support and loan benefits, except there are restrictions on the plantings of fruits and vegetables on program acreage.

The mechanism of nonrecourse commodity loans is modified slightly from the previous provisions. Minimum loan rates continue to be based on a moving average of past market prices, but maximum loan rates are now established by the 1996 Act. The dairy program will be significantly changed starting in 2000, when a recourse loan program will be substituted for

the current system of price supports through direct government purchases of dairy products. Because recourse loans must be repaid, there should be little, if any, government accumulation of dairy products.

The peanut program has been changed to help assure that the Government does not incur costs due to surplus stock accumulation. The minimum quota floor for quota peanuts has been eliminated and the support rate for quota peanuts has been reduced. The sugar program continues to have nonrecourse loans available to processors, unless the sugar import quota is established at less than 1.5 million tons, in which case the loans would be recourse loans, but there is now a 1-cent penalty for forfeiting any sugar under the non-recourse provisions.

Overall, the 1996 Act's major changes include: making direct payments that are unrelated to market prices, increasing planting flexibility, allowing unrestricted haying and grazing, eliminating the authority for Acreage Reduction Programs, suspending the Farmer-Owned-Reserve, eliminating mandatory crop insurance participation, reducing peanut, dairy, and sugar effective price support levels, and establishing a commission to study the effects of the 1996 Act and the role of Government in agriculture.

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\*The crop provisions presented in "Title I" were coordinated by Linwood Hoffman. Hoffman and all the authors contributing to this section are agricultural economists with the Commercial Agriculture Division, Economic Research Service, USDA.

## **Subtitle A**

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# **Short Title, Purpose, and Definition**

Bryan Just

Title I of the 1996 Act is cited as the Agricultural Market Transition Act (AMTA). The title's stated purposes are: "(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensuring continued compliance with farm conservation and wetland protection requirements; (2) to make nonrecourse marketing assistance loans and loan deficiency payments available for certain crops; (3) to improve the operation of farm programs for milk, peanuts, and sugar; and (4) to establish

a commission to undertake a comprehensive review of past and future production agriculture in the United States."

In addition, the AMTA contains provisions related to: the continuation of commodity options pilot programs, risk management education, changes in the Federal crop insurance program, establishment of an office of risk management, a revenue insurance pilot program, and administration and operation of a noninsured crop assistance program.

## Subtitle B

# Production Flexibility Contracts

Bryan Just

Under provisions of the AMTA, the Secretary is required to offer production flexibility contracts (PFC's), covering the 1996 through 2002 crops of wheat, feed grains, upland cotton, and rice, to eligible landowners or producers with eligible cropland. In return for contract compliance, individuals will be paid a series of annual contract payments, based on a predetermined total dollar amount for each year. This subtitle describes the production flexibility contracts, eligibility for contracts, determination and timing of payments, contract compliance requirements, consequences of violating contract conditions, and provisions for transfer of rights under the contract.

### Offer and Terms of Contracts

The Secretary shall offer to enter into a PFC with an eligible landowner or producer of contract commodities (wheat, corn, sorghum, barley, oats, cotton, and rice) on a farm containing eligible cropland. The eligible landowner or producer must enroll in a PFC during the 1996 sign-up period, except for land removed from the conservation reserve that is subsequently allowed to enroll. In exchange for annual contract payments, the owner or producer agrees to: (1) comply with certain conservation requirements regarding use of highly erodible land and wetlands (see subtitles B and C of title III), (2) comply with planting flexibility requirements of this title, and (3) use contract acreage for agricultural or related activities, but not for nonagricultural commercial or industrial use.

### Eligibility

Owners and producers with eligible cropland shall be eligible for a PFC if they are:

- (1) An owner who assumes all or part of the risk of producing a crop; or

- (2) A producer on land leased on a share rent basis if the landowner enters into the same contract; or
- (3) A producer on leased land on a cash rent basis with a lease expiring on or after September 30, 2002; or
- (4) A producer on leased land on a cash rent basis with a lease expiring before September 30, 2002, but if less than 100 percent of eligible acreage is enrolled, the owner's consent is required; or
- (5) A landowner if the land is leased for cash to a producer who declines to enter into a contract and the lease expires before September 30, 2002, in which case contract payments are made only for those years after the lease expires.

The Secretary must maintain adequate safeguards to protect the interest of tenants and sharecroppers.

Unlike the 1995 program, a landowner or producer is not required to purchase catastrophic (CAT) risk protection crop insurance to be eligible for PFC payments, commodity loans, the conservation reserve, and other programs. However, if CAT coverage is not purchased for a particular crop, the participant is required to waive any eligibility for emergency crop loss assistance programs for that crop. The Federal Crop Insurance Reform Act of 1994 required the purchase of CAT coverage, for a minimal \$50 processing fee, in order to be eligible for federal farm programs in 1995.

To be eligible for coverage under a PFC, land must have attributable to it at least one crop *acreage base* established for contract commodities (contract acreage) that would have been in effect for the 1996 crop under previous law (title V of the Agricultural Act of 1949, prior to its suspension by Section 171(b)(1) of the 1996 Act). Included in the derivation of the crop acreage base that would have been in effect

for 1996 is land that participated in 1991-95 programs for the contract commodities and land that did not participate but was reported to FSA (ASCS) county offices and recorded as certified planted acreage for contract commodities. The Act also stated that at least one of the following additional conditions must be met for land to be eligible:

- (1) For at least one of the 1991 through 1995 crops, at least a portion of the land was either enrolled in an acreage reduction program or was considered planted;
- (2) The land was subject to a conservation reserve contract that either expired or was voluntarily terminated on or after January 1, 1995; or
- (3) The land was released from a conservation reserve contract by the Secretary during the period from January 1, 1995, to August 1, 1996.

### Contract Timing, Duration, and Ending Date

The Secretary must enter into PFC's during the period beginning 45 days after enactment of the 1996 Act and ending no later than August 1, 1996, with the exception of subsequently expiring conservation reserve contracts. The sign-up period was subsequently set by the Secretary as May 20, 1996, through August 1, 1996. The contract period begins with the 1996 crop and ends with the 2002 crop, unless terminated earlier by the owner or producer.

### Conservation Reserve Program (CRP) Exception

An exception to the August 1, 1996, deadline is made for acreage covered by a CRP contract expiring after August 1, 1996. At the beginning of each fiscal year, an eligible owner or producer may enter into or expand a PFC with eligible acreage previously covered by a conservation reserve contract. Only expiring CRP acreage with a crop acreage base history is eligible. Regardless of when the contract is expanded or entered into, it extends only through the 2002 crop. Conservation reserve acreage entering into a PFC after August 1, 1996, will receive contract payments applicable to the annual payment rate for the commodity. During the fiscal year in which the CRP contract expires, the owner or producer may choose to receive either the contract payment or a prorated CRP rental payment, but not both.

### Contract Payments

#### Total Contract Payments

The 1996 Act specifies the maximum amount of money that can be made available for contract payments and the allocation to each contract commodity. Starting with \$5.570 billion in fiscal year 1996, the total amount decreases slightly for fiscal year 1997, increases to \$5.800 billion in fiscal year 1998, and then declines gradually to \$4.008 billion by fiscal year 2002. Contract commodities include wheat, corn, sorghum, barley, oats, upland cotton, and rice. The amount of money available for annual contract payments and allocation to each commodity are found in table 1.

**Table 1—Total amount of contract payments, by fiscal year, and allocation to commodities for crop years 1996-2002<sup>1</sup>**

Fiscal year	Total amount of payments	Commodity and allocation percent						
		Wheat (26.26)	Corn (46.22)	Sorghum (5.11)	Barley (2.16)	Oats (0.15)	Cotton (11.63)	Rice <sup>2</sup> (8.47)
<i>Billion dollars (annual payment amount per commodity)</i>								
1996	5.5700	1.4627	2.5745	0.2846	0.1203	0.0084	0.6478	0.4718
1997	5.3850	1.4141	2.4889	0.2752	0.1163	0.0081	0.6263	0.4561
1998	5.8000	1.5231	2.6808	0.2964	0.1253	0.0087	0.6745	0.4913
1999	5.6030	1.4713	2.5897	0.2863	0.1210	0.0084	0.6516	0.4746
2000	5.1300	1.3471	2.3711	0.2621	0.1108	0.0077	0.5966	0.4345
2001	4.1300	1.0845	1.9089	0.2110	0.0892	0.0062	0.4803	0.3498
2002	4.0080	1.0525	1.8525	0.2048	0.0866	0.0060	0.4661	0.3395
Total	35.6260	9.3553	16.4664	1.8204	0.7695	0.0535	4.1432	3.0176

<sup>1</sup>Annual dollar amount shall be adjusted for refunds, payment limits, and contract terminations.

<sup>2</sup>Rice shall receive an additional allocation of \$8,500,000 per fiscal year from 1997 to 2002.

## Summary of Payment Calculation

### *For each commodity at the farm level—*

The annual contract payment is the product of the contract payment quantity and the national annual payment rate (same rate for all farms).

The contract payment quantity is the product of 85 percent of the contract acreage and the farm program payment yield. The contract acreage for the commodity on the farm is the crop acreage base that would have been in effect for the 1996 crop under title V of the Agricultural Act of 1949 if it had not been suspended. The farm program payment yield is the payment yield established on the farm for the 1995 crop of a contract commodity.

### *For each commodity at the national level—*

**Annual payment rate**—The annual payment rate for each commodity is equal to the total amount made available for the year, divided by the annual payment quantity. The total amount made available for the year for each commodity is listed in table 1. The annual payment quantity is the sum of all contract payment quantities for all farms in that year.

## Adjustments to Total Amount Made Available for Payments

The Secretary shall adjust the fiscal year totals for each commodity by: adding an amount equal to the sum of all deficiency payments from prior crops required to be refunded to the CCC, adding an amount equal to withheld contract payments from the preceding fiscal year resulting from contract violations, subtracting an amount, if necessary, to recover refunds for unearned 1994 or 1995 crop deficiency payments, and subtracting an amount equal to foregone contract payments as a result of the application of the 1996 Act's payment limitation provision. In addition, the amount available for rice shall be increased by \$8.5 million each year for fiscal years 1997 to 2002.

## Payment Timing

Annual contract payments shall be made no later than September 30 of each fiscal year from 1996 through 2002. An advance payment equal to half of the annual payment may be received on either December 15 or January 15 of the fiscal year, at the option of each owner or producer. For fiscal year 1996, an owner or producer may request that half of the contract payment be paid within 30 days of entering into, and approval of the contract. At the time of entering into a contract, the Secretary shall provide an estimate of minimum contract payments to be made for at least the first year of contract payments.

## Reduction in Payment Amount

A reduction in the contract payment shall be made if the owner or producer entering into a PFC owes a deficiency payment refund that has not been paid at the date of contract payment determination (date of entering contract). The Secretary is required to collect the repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

## Assignment of Contract Payments

Owners and producers may assign contract payments to others, subject to rules issued by the Secretary. The owner or producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require.

## Sharing of Contract Payments

The Secretary must ensure that contract payments are shared among producers and owners subject to the contract on a fair and equitable basis, as determined by the Secretary.

## Payment Limitations

The maximum amount of PFC payments a "person" (as defined for payment limitation purposes) may receive in a fiscal year is \$40,000, down from the limit of \$50,000 per crop year under previous provisions. A "person's" limit on payments from marketing loan gains or loan deficiency payments continues to be \$75,000 per crop year.

The three-entity rule continues under the 1996 Act with a producer being able to receive, directly and indirectly, up to \$80,000 per fiscal year in total con-

tract payments—\$40,000 directly and up to \$20,000 indirectly from each of two additional entities that each receive payments directly as a separate entity. This represents a change from the previous limit of \$100,000 (\$50,000 directly and up to \$25,000 indirectly on each of two additional entities). Annual crop year limits on marketing loan provisions are continued at \$75,000 directly and \$37,500 indirectly from each of two additional entities. Payments received directly by a “person” are sent directly to that “person” by the Government. Payments are received indirectly when a “person” receives a share of payments that were sent directly to another “person” by the Government.

### **Exclusion of Certain Amounts From Contract Payments**

For payment limitation purposes, a certain portion of a “person’s” annual contract payment amount is not to be counted as part of the “contract payment” subject to the \$40,000 payment limitation in section 115 of title I. This excluded portion of actual payments to a “person” is, however, subject to a separate \$50,000 per person payment limitation specified in section 113, subsection (e). The excluded portion of payments of a person is the person’s prorata share of the total amount made available for payments in a given year that was due to the additional amounts made available through adjustments for refunds and repayments in section 113, subsection (c) (related to repayment of advance payments or refunds required because of PFC violations).

### **Contract Violation**

If an owner or producer subject to a PFC violates any one of the eligibility requirements (conservation, wetland, planting flexibility, or land use), the Secretary shall terminate the contract on each farm in which the owner or producer has an interest. Contract termination results in the owner or producer forfeiting all future contract payments and refunding any payments, plus interest, received during the period of violation. The Secretary may determine that a violation does not warrant contract termination. In this case, the Secretary may require a refund of payments, plus interest, received during the violation period or reduce all future contract payments based on the severity of the violation.

The Secretary may forgive any required repayments by an owner or producer subject to a PFC if the contract

acreage is foreclosed upon. If the owner or producer resumes operation or control of the contract acreage, contract provisions in effect on the date of foreclosure shall apply.

### **Transfer of Contract Acreage**

If an owner or producer transfers acreage subject to a PFC, the contract is terminated with respect to such acreage, unless the new owner or producer agrees with the Secretary to assume all obligations of the PFC. At the request of the new owner or producer, the Secretary may modify the PFC if the modifications are consistent with the objectives of the PFC. If an owner or producer dies, becomes incompetent, or otherwise cannot receive a contract payment, the Secretary shall make payments according to prescribed regulations.

### **Planting Flexibility**

Acreage reduction programs are not in effect. Contract acreage does not have to be planted to a contract commodity or any commodity for the owner or producer to receive contract payments, but the contract acreage may not be used for nonagricultural commercial or industrial purposes. Any crop or commodity may be planted on PFC acreage except fruits and vegetables. Haying and grazing of any crop on contract acreage is permitted at anytime. Contract commodities may be planted and harvested on noncontract acreage on a farm.

Fruit and vegetable production is not allowed on contract acreage unless: the farm is in a region with a history of double cropping with fruits or vegetables; the farm is not in a double-crop region, but it has a history of planting fruits and vegetables on contract acreage (in this case, the contract payment will be reduced by each acre planted to fruits and vegetables on contract acreage); or a producer, as determined by the Secretary, has a history of planting a specific fruit or vegetable (however, plantings cannot exceed the average annual plantings from 1991 through 1995, excluding any year in which no plantings were made, and the contract payment will be reduced by each acre planted to the fruit or vegetable). Lentils, mung beans, and dry peas are not included in the list of fruits and vegetables and may be planted for harvest without limitation on contract acreage.

## Subtitle C

# Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

Bryan Just and Leslie Meyer

In general, the 1996 Act continues provisions for non-recourse commodity loans and marketing loans. Loan rates continue to be based on moving averages of recent past market prices (except in the case of rice), but maximum loan rates are also established equal to 1995 loan rates. Interest on these loans are increased by 1 percentage point by provisions in subtitle E of this title. The Secretary must allow producers the option of repaying loans at levels below the original loan rate to reduce the likelihood that commodities pledged as collateral for a loan will be forfeited in satisfaction of the loan.

### Commodity Loans

Nonrecourse marketing assistance loans are mandated for the 1996-2002 crops of wheat, corn, barley, grain sorghum, oats, upland cotton, extra-long staple cotton, rice, soybeans, sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed. The loan provisions are little changed from previous farm law.

The loan provisions enable producers of eligible commodities to obtain a loan from the Commodity Credit Corporation (CCC) using the current year's production as collateral. The value of the loan is the product of the announced loan rate and the quantity placed under loan. As in the past, these loans are nonrecourse loans, meaning the CCC has no recourse but to accept the collateral as full payment of the loan. This provides the producer with a guaranteed minimum price equal to the commodity loan rate for crops pledged as collateral for the loan. Producers are responsible for maintaining the quality of the commodity during the term of the loan.

Commodity loan rates are based on a moving average of past market prices and are calculated as 85 percent of the simple average of market prices for the preceding 5-year period, excluding the years with the highest

and the lowest market price. An exception is made for the rice loan rate, which is fixed at \$6.50 per hundred-weight (cwt) through the year 2002.

Producers must comply with conservation and wetland requirements to receive a loan. All production covered by a PFC is eligible for the loan program. All extra-long staple (ELS) cotton and oilseed production is eligible for the loan program, but ELS cotton is not eligible for marketing loan gains or loan deficiency payments.

### Wheat and Feed Grains

Loan rates for wheat and corn must not be less than 85 percent of the average price received by producers for the preceding 5-year period, excluding the years with the highest and the lowest market price—except as specified below for various stock-to-use ratios. But the loan rate also cannot exceed \$2.58 per bushel for wheat or \$1.89 per bushel for corn (the 1995 loan levels). The loan rate for other feed grains shall be established at a level determined fair and reasonable by the Secretary in relation to the corn loan rate. In this determination, the feeding value of the commodity in relation to corn must be considered. Rye is no longer eligible for loans under the 1996 Act. The Secretary may lower the minimum loan rate based on the ratio of ending stocks to total use as follows:

<i>If stocks-to-use ratio is:</i>	<i>The loan rate may be reduced by:</i>
For wheat:	
Equal to or greater than 30 percent	Up to 10 percent
15 to 30 percent	Up to 5 percent
Less than 15 percent	No adjustment
For corn:	
Equal to or greater than 25	Up to 10 percent
12.5 to 25 percent	Up to 5 percent
Less than 12.5 percent	No adjustment

## Upland Cotton

The minimum loan rate for upland cotton continues to be 50 cents per pound, and a new provision sets an upper limit at the 1995 loan rate level of 51.92 cents, for crop years 1996 through 2002. Within this range, the loan rate cannot be less than the smaller of:

- 85 percent of the 5-year average of prices, excluding the years with the highest and lowest prices, using the weighted average U.S. spot prices in designated markets for base quality cotton for the 5-year period ending July 31 of the year preceding the year in which the crop was planted, or
- 90 percent of the average price for the five lowest priced growths quoted for Northern Europe delivery during a 15-week period beginning July 1 of the year preceding the year in which the crop was planted, adjusted downward by the average difference between the Northern European price and the U.S. spot price for base quality cotton for the period April 15 through October 15.

These marketing assistance loan rate calculations are the same as in effect under the previous law. An announcement date for the upland cotton price support rate is no longer specified. Previously, the rate was announced by the November 1 preceding the start of the marketing year for which the loan was effective.

## ELS Cotton

The loan rate for ELS cotton shall not be less than 85 percent of the average price received by producers for the preceding 5-year period ending July 31 of the year preceding the year in which the crop was planted, excluding the years with the highest and lowest market price. A new provision sets a maximum loan rate equal to the 1995 loan rate of 79.65 cents per pound. An announcement date for the ELS cotton price support rate is no longer specified. Previously, the rate was announced by the December 1 preceding the beginning of the marketing year for which the loan was effective.

## Rice

The loan rate for rice for the 1996-2002 crop years is the 1995 level of \$6.50 per cwt.

## Soybeans

The loan rate for soybeans shall not be less than \$4.92 per bushel or more than \$5.26 per bushel. Within this range, the loan rate cannot be less than 85 percent of the average price received by producers for the preceding 5-year period, excluding the years with the highest and the lowest market price.

## Minor Oilseeds

The loan rate for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed must not be set at less than \$0.087 per pound or more than \$0.093 per pound. Within this range, the loan rate is not to be set at less than 85 percent of the average price received by sunflowerseed producers for the preceding 5-year period, excluding the years with the highest and the lowest market price. The loan rate for other oilseeds shall be established by the Secretary at a level that is fair and reasonable in relation to the loan rate for soybeans. On a per pound basis, the loan rate for oilseeds, except cottonseed, must not be lower than the loan rate for soybeans.

## Term of Loans

Marketing assistance loans for each commodity (except ELS and upland cotton) have a term of 9 months beginning on the first day of the first month after the month in which the loan is made. Marketing assistance loans for ELS and upland cotton have a term of 10 months beginning on the first day of the month in which the loan is made. The Secretary may not extend the length of any loan for any commodity (except for sugar and for dairy, as explained in subtitle D).

## Loan Repayment Rate

The loan repayment rate is the amount the producer must pay to settle a CCC loan and redeem the commodity used as collateral.

## Wheat, Feed Grains, and Oilseeds

The loan repayment rate for wheat, feed grains, and oilseeds will be the lower of (1) the established loan rate, plus interest, or (2) a repayment rate set by the Secretary that will: minimize potential loan forfeitures; minimize the accumulation of stocks of the commodity

by the Federal Government; minimize the cost incurred by the Federal Government in storing the commodity; and allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

## Rice

Loan repayment rates for rice must be the lower of (1) the established loan rate plus interest, or (2) the prevailing world market price. The prevailing world market price and mechanism for announcing the prevailing world market price are to be determined by the Secretary. The prevailing world market price must be calculated with a formula, taking into account the location and quality of U.S. production, and the results announced periodically.

## Upland Cotton

Upland cotton producers may repay marketing assistance loans at the lesser of:

- The established loan rate for upland cotton, plus interest, or
- The prevailing world market price for upland cotton, adjusted to U.S. quality and location (the “adjusted world price” (AWP)).

The Secretary must continue to announce the formula used to determine the AWP for upland cotton and a mechanism for periodic announcement of this price. In addition, further adjustments are to be made to the AWP to make U.S. cotton more competitive if the AWP is less than 115 percent of the current crop year loan rate, and the average U.S.-Northern Europe price quotation exceeds the average Northern Europe price quotation.

The U.S.-Northern Europe price quotation in the above comparison is the weekly (Friday through Thursday) average price quotation for the lowest priced U.S. growth, as quoted for Middling (M) 1-3/32-inch cotton, delivered c.i.f. (cost, insurance, freight) Northern Europe. The Northern Europe price is the weekly average of world price quotes for the five lowest priced growths of upland (M 1-3/32 inch) cotton, delivered c.i.f., Northern Europe (as defined in section 134 of the 1996 Act).

The AWP can also be adjusted on the basis of the U.S. share of world exports, the current level of cotton export sales and shipments, or other relevant data as

determined by the Secretary. These adjustments cannot exceed the difference between the above U.S.-Northern Europe price and the Northern Europe price.

## ELS Cotton

Repayment rates for ELS cotton are equal to the established loan rate, plus interest.

## Loan Deficiency Payments

Except in the case of ELS cotton, the Secretary may make loan deficiency payments available to producers of loan commodities who, although eligible to obtain a marketing assistance loan, agree to forgo obtaining the loan for the commodity in return for a loan deficiency payment. These payments are computed by multiplying the loan payment rate for the loan commodity by the quantity of the loan commodity that the producer is eligible to pledge as collateral for a loan.

The loan payment rate is the amount by which the loan rate established for the loan commodity exceeds the rate at which a loan for the commodity may be repaid.

## Special Marketing Loan Provisions for Upland Cotton

Four special provisions for upland cotton continue under the 1996 Act: a discretionary authority to reduce the AWP under certain circumstances, a user marketing certificate program, a special import quota, and a limited global import quota.

Under the user marketing certificate program, the Secretary must issue marketing certificates or cash payments to domestic users of upland cotton for documented purchases and to exporters of upland cotton for documented sales made in a week following a consecutive 4-week period in which:

- The U.S.-Northern Europe price quotation exceeds the Northern Europe price quotation by more than 1.25 cents per pound, and
- The AWP does not exceed 130 percent of the loan rate.

The value of the certificate or payment (known as a step two payment) is equal to the difference (reduced by 1.25 cents per pound) between the U.S.-Northern Europe price and the Northern Europe price during the fourth

week of the consecutive 4-week period multiplied by the quantity of documented purchases or sales. However, these certificates or payments are not issued when the special import quota is in effect. In addition, total expenditures for the user marketing certificate program are limited under the 1996 Act and cannot exceed \$701 million during fiscal years 1996 through 2002.

The President shall authorize a special import quota for upland cotton if for any consecutive 10-week period, the weekly average price quotation for the U.S.-Northern Europe price (adjusted for any certificate value) exceeds the Northern Europe price by more than 1.25 cents per pound. The quota will equal 1 week's domestic mill consumption of upland cotton at the seasonally adjusted average rate for the most recent 3 months for which data are available. This quota will apply to upland cotton purchased within 90 days after the quota announcement and entered into the United States no later than 180 days after such date. Quota periods can overlap, however, a special import quota cannot be established if a limited global import quota is in effect.

The President shall authorize a limited global import quota for upland cotton whenever the average monthly price of the base quality of upland cotton in the designated spot markets exceeds 130 percent of the average price of such quality of cotton in these markets for the preceding 36 months. The quota will equal 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

If the limited global import quota has been established during the preceding 12 months, the quota quantity will be the smaller of either 21 days of domestic mill consumption or the quantity required to increase supply to 130 percent of demand. Supply equals the carry-over from the previous year, plus current production, plus the current marketing year's imports. Demand equals the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months, plus the larger of either the average exports during the preceding 6 marketing years or the cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established. Cotton must enter into the United States within 90 days after the quota announcement. This quota cannot overlap an existing quota period or the special import quota described above.

Both the special import quota and the limited global import quota shall be considered "in quota" quantities

for purposes of various trade agreements, so these imports are not subject to over-quota tariffs.

## **Recourse Loans for High-Moisture Feed Grains and Seed Cotton**

Recourse loans are available for the 1996-2002 crops of high-moisture corn and grain sorghum to producers on a farm containing eligible cropland covered by a PFC. High moisture means corn or grain sorghum having a moisture content in excess of CCC standards for marketing assistance loans. For recourse loan eligibility, producers must: normally harvest all or a portion of their feed grains crop in a high-moisture state, present certified scale tickets or present field or physical measurements of the crop, certify feed grains ownership at time of delivery, and comply with deadlines set by the Secretary.

Certified scale tickets can be from an inspected certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary. Field or physical measurement of the standing or stored crop is permitted in regions of the United States, as determined by the Secretary, that do not have certified commercial scales for obtaining certified scale tickets within reasonable proximity of harvest operations.

Owners of feed grains must certify that the quantity to be placed under loan was in fact harvested on the farm and delivered to a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high-moisture state.

The Secretary must also make available recourse seed cotton loans to upland and ELS producers. The repayment rates for these loans are the established loan rates plus interest.

## **Release of Cotton Crop Reports (Section 870 of the 1996 Act)**

Existing legislation that specified the release of monthly cotton crop reports at 3:00 p.m. EST was repealed by title VIII of the 1996 Act (subsection (c), section 870). This will allow all crop reports to be released simultaneously at 8:30 a.m. EST before the U.S. commodity markets open for business.

## Subtitle D

### Other Commodities

#### Chapter 1—Dairy

Richard Stillman

The 1996 Act presents a departure from past dairy policies. The previous method of supporting milk price through government purchases is extended for 3 years, at reduced support levels, and then eliminated. Starting in the year 2000 is a recourse loan program aimed at providing seasonal price stabilization, rather than price support. The provision for a minimum support level for milk of \$10.10/hundredweight (cwt) is immediately repealed, along with provisions for assessments and for increasing and decreasing support levels over time based on the estimated level of government purchases. The farm bill has no effect on current provisions for import restrictions on dairy products allowed under the Uruguay Round of the General Agreement on Tariffs and Trade (GATT)—provisions that insulate the domestic market from foreign competition.

The farm bill for the first time requires a major restructuring of Federal Milk Marketing Orders (FMMO), a regional system of pricing established pursuant to the Agricultural Marketing Act of the 1937.

#### The Milk Price Support Program

The 1996 Act states that the Secretary shall support the price of milk through the purchase of cheese, butter, and nonfat dry milk at the following rates per cwt for milk containing 3.67 percent butterfat:

<i>Calendar year</i>	<i>Dollars/cwt</i>
1996	10.35
1997	10.20
1998	10.05
1999	9.90
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2000 and beyond	Not applicable
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There are no provisions in the 1996 Act to adjust these support levels over time. And there are no provisions at all for government purchases to support milk prices after 1999. The prior program, as extended by the 1990 Act, required support prices to be increased or decreased if the estimated level of government purchases of dairy products (“total solids basis”) reached certain trigger levels.

#### Assessments

Assessments are eliminated under the 1996 Act (related refunds for 1995 and 1996 will be made). The 1990 Act and the 1993 Omnibus Budget Reconciliation Act mandated milk marketing assessments to help pay the cost of the price support program. The budget reconciliation assessment for 1996 had been established at 10 cents per cwt. Producers who did not increase milk marketings over the previous-year level would receive a refund of the assessment, and an additional assessment would be imposed by the CCC to recapture the cost of these refunds.

#### Butter and Nonfat Dry Milk and Cheese Provisions

The 1996 Act gives the Secretary flexibility to set butter and nonfat dry milk support prices at levels that will minimize the level of expenditures by the CCC and achieve other appropriate objectives. The purchase prices for these products are set such that a weighted average of these product prices (based on the yield from 100 pounds of milk), less processing costs (“make allowance”) will equal the milk support price. The previous law was more restrictive than the 1996 Act about the support levels for dairy products. The purchase price of butter, under the prior law, could be no higher than \$0.65 per pound and the purchase price of nonfat dry milk could be no lower than \$1.034 per pound.

## Recourse Loan Program for Commercial Processors of Dairy Products

Recourse loans will be available to commercial processors of dairy products, beginning January 1, 2000, to promote within-year price stability. The 1996 Act states that the Secretary shall make recourse loans available to commercial processors to assist them in the management of inventories through temporary storage of eligible dairy products. Funds and authorities of the Commodity Credit Corporation (CCC) shall be used to carry out the program. The rate of interest charged participants under this program shall not be less than the rate of interest charged the CCC by the United States Treasury.

The recourse loan rate for dairy products will be established at a milk equivalent value of \$9.90 per cwt (3.67 percent butterfat milk). The eligible products are cheddar cheese, butter, and nonfat dry milk, the same as for the price support program. The term of the loan contracts may not extend beyond the end of the fiscal year, unless the Secretary uses available discretionary power to extend the loan for a period not to exceed the end of the next fiscal year.

## Consolidation and Reform of Federal Milk Marketing Orders

The 1996 Act modifies the Federal Milk Marketing Order (FMMO) system that is used to set regional prices of milk used for fluid milk. FMMO's, authorized by the Agricultural Marketing Agreement Act of 1937, regulate the minimum prices paid to dairy farmers by handlers of Grade A milk in specified marketing areas. Milk is classified according to use (classified pricing). The order determines the minimum prices that handlers in the marketing area must pay for different classes of milk. Producers then receive an average (blend) price for all the milk marketed in the marketing area. Class prices in most cases are based on the average price paid for manufacturing grade milk in Minnesota and Wisconsin updated by a product price formula—the basic formula price. Predetermined FMMO class I price differentials for each order are added to the basic formula to determine the Class I price. Class I milk is used in perishable fluid products.

The 1996 Act mandates that the Agricultural Marketing Service (AMS): (1) consolidate the number

of orders from the present 33 orders to not less than 10 or more than 14 orders, (2) allow the California order to enter the FMMO system as a separate order if the producers in California choose to enter the Federal system, (3) use the informal notice and comment rule-making process to implement the changes in the FMMO system, (4) announce the specific proposed amendments to the FMMO system within 2 years of the enactment of the Act, (5) implement final amendments to the FMMO system within 3 years of the passage of the Act, or by April 4, 1999, and (6) submit a report to Congress, through the Secretary of Agriculture, by April 1, 1997, on the progress being made in making the changes to the system, along with recommendations for further changes.

As part of the reform and consolidation of the FMMO system, the Secretary is also authorized to implement: (1) the use of utilization rates and multiple basing points for the pricing of fluid milk, and (2) the use of uniform multiple component pricing when developing a replacement for the basic formula price used for pricing milk in Federal order markets. (See glossary for definitions.)

### Multiple Basing Points

Under the 1996 Act, the Secretary may establish multiple basing points to determine Class I prices in different areas. Class I differentials have varied across the country, being lower in the surplus production areas of the upper Midwest and higher in the deficit production areas of the South. Over time, other areas besides the upper Midwest have expanded production and could now be classified as surplus producing areas, which could result in "multiple basing points." The 1996 Act specifically forbids the Secretary from using, in the reform of the FMMO, the Class I differentials mandated in the 1985 Farm Bill.

### Rulemaking Process/Timing

Unlike previous changes in orders, where the formal rulemaking process has been used to promulgate or amend Federal orders, informal rulemaking can now be used. This new approach provides for the issuance of a proposed rule by AMS, a period of time for the filing of comments by interested parties, and the issuance of a final rule by the Secretary. Typically, informal rules do not require a referendum, but this proceeding will require a referendum to determine producer approval of the new orders. AMS has 2 years from the date of the enactment to put forth a proposal

and another year to implement the changes. If the changes are challenged in court and a court order stops the reform, additional time is allowed to make the changes. If the reforms are not completed in the specified period, the Secretary may not collect assessments used to pay for the order operations until the consolidation is completed.

### **Effect on Fluid Milk Standards in State of California**

The 1996 Act allows California to maintain its different standards for fluid milk products in terms of fat and nonfat components. At present, California requires that milk sold in California have more nonfat solids in fluid milk than is required in other parts of the country. Milk directly from a cow in the United States averages about 3.67 percent fat. Whole fluid milk as sold in the stores contains a minimum 3.25 percent fat. Two-percent milk and 1-percent milk are aptly named, and skim milk is effectively less than 0.5 percent fat. California requires fluid processors to increase the amount of nonfat solids in milk, so that products are standardized seasonally and among processors.

### **Milk Manufacturing Marketing Adjustment**

Section 145 sets the manufacturing, or “make,” allowance for butter and nonfat dry milk and cheese at not more than \$1.65 per cwt for butter and nonfat dry milk and not more than \$1.80 per cwt for cheese, for any State participating in the Federal support program. California, under its order system, has been providing a higher make allowance to processors than specified by the CCC. The effect, some have contended, was to widen the processor margin and give a lower price to milk producers. The 1990 Act (section 102 ) contained provisions which addressed State make allowances, although there were wide divergences of opinion on the interpretation and significance of the 1990 language. That debate has ended as section 102 was repealed by the 1996 Act.

### **Promotion**

This section authorizes the continued collection of the fluid milk promotion assessment (different from the marketing assessment) through 2000. The funds are

then used to pay for generic advertising of fluid milk products.

### **Northeast Interstate Dairy Compact**

Under the 1996 Act, if the Secretary finds that there is a compelling public interest in the Northeast in regard to the Northeast Interstate Dairy Compact (the compact) already ratified by six Northeastern States (Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island), then the Secretary may grant these States the authority to implement the compact. This authority was granted by the Secretary on August 9, 1996. This compact will allow these States to place an additional over-order charge on Class I milk marketed in the compact region. The Class I price under the compact can be set at a maximum of \$1.50 a gallon, plus an increase based on the rate of inflation since 1990. In 1995, for example, the level of the Class I price maximum under the compact could have been around \$20.00 per cwt or about \$5.00 over the New England Federal Order Class I price.

Authority for the compact terminates upon the completion of the FMMO consolidation and reform. The States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia may join the compact if they are contiguous to a participating State when they enter the compact—and if Congress consents to their entry. The compact must compensate the CCC for any additional costs the CCC incurs due to the rate of increase in milk production in the compact region exceeding the national average rate of increase in milk production. The compact cannot limit any movement of milk into the compact area. Further, any fluid milk that is sold in the compact area from non-compact areas will receive the same price, as if it had been produced in one of the compact States.

### **Dairy Export Incentive Program**

The Dairy Export Incentive Program (DEIP) is extended to 2002, and, in addition to requirements under the original provisions of the 1985 Act, the Secretary is now also required to operate the program to ensure the maximum amount of exports that are consistent with obligations of the United States under the Uruguay Round Trade Agreement. The Secretary shall also take into consideration incentives that may be needed to assist in the development of world markets for U.S. dairy products.

### **Authority To Assist in Establishing and Maintaining One or More Export Trading Companies**

The Secretary is required to help the U.S. dairy industry establish and maintain one or more export trading companies under the Export Trading Company Act of 1982 in order to facilitate export market development and the export of U.S. dairy products.

### **Standby Authority To Indicate Entity Best Suited to Provide International Market Development and Export Services**

The Secretary shall indicate which entity or entities are best suited to assist the U.S. dairy industry in the development of international markets if: (1) the industry has not established a trading company under the Export Trading Company Act of 1982 on or before June 30, 1997, or (2) U.S. exports during the 12-month period preceding July 1, 1998, do not exceed the dairy product exports in the 12 months ending July 1, 1997, by 1.5 million pounds (milk equivalent, total solids basis). The Secretary must also assist these entities in

identifying sources of funding. This Section is applicable from July 1, 1997, to September 30, 2000.

### **Cheese Import Study**

The Secretary is required to conduct a study of the potential impacts of the additional cheese granted access to the U.S. as imports under the Uruguay Round of GATT. This study is to be done by variety of cheese and is to provide estimates of effects on U.S. milk prices, dairy producer income, and U.S. dairy program costs. A report to Congress is to be made by July 1, 1997. The limitation on the number of studies imposed on the Department by Congress does not apply to this study.

### **Promotion of United States Dairy Products in International Markets Through Dairy Promotion Program**

The National Dairy Board may expend funds to develop international markets and to promote consumption of U.S. dairy products overseas. This program is authorized for each of the fiscal years 1997 through 2001.

## Subtitle D

# Other Commodities

## Chapter 2—Peanuts

Scott Sanford

The 1996 Act continues the two-tier price support program based on nonrecourse loans for quota peanuts and for additional peanuts for 1996 through 2002, with some significant modifications. The loan rate for quota peanuts shall be held constant from 1996 through 2002, at about 10 percent below the 1995 loan level. The loan rate level for additional peanuts must be set to ensure no losses by the Commodity Credit Corporation (CCC) that are related to the loan program. Cost-of-production is no longer a basis for increasing the support level, as it was in the Food, Agriculture, Conservation, and Trade Act of 1990.

The peanut program is further revised to reduce the chances of the CCC incurring costs due to commodity loan forfeitures. Costs can now be avoided by the CCC bringing quota peanut supply and demand into closer balance, by increasing the assessments on quota and additional peanuts, and by increasing assessments on quota peanuts for specific area quota pools to cover losses in those pools. Undermarketings are also eliminated under the 1996 Act, in contrast to the 1990 Act where a producer's undermarketings of quota peanuts from a previous year's quota allocation could be carried forward and used to increase the producer's current quota.

### Price Support

The Secretary continues to be required to make nonrecourse loans available to producers of quota peanuts and of additional peanuts. The loan value is the product of the loan rate and the eligible quantity, and this amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage. The producer portion of assessments, however, shall be deducted from the loan proceeds. There may also be loan rate adjustments for quota peanuts for location of peanuts and such other factors as grade, type, and quality.

To carry out the program, the Secretary must continue to make warehouse storage loans available in each of the producing areas to area producer marketing associations established to carry out the loan activities. In each area, marketing associations must continue to be approved by the Secretary and must establish separate marketing pools for quota peanuts and additional peanuts.

The national average quota loan rate for the 1996-2002 crops of quota peanuts will be \$610 per short ton, about 10 percent below the 1995-crop support rate of \$678.36 per short ton. Additional peanuts will again be supported at levels the Secretary determines appropriate, taking into consideration the demand for peanut oil and meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets. The support rate level for additional peanuts must ensure no losses to the CCC.

“Additional” peanuts are defined as those peanuts sold from a farm in any marketing year in excess of the farm's eligible quota peanuts. “Additional” peanuts would thus include, but not be limited to, those marketed from a farm on which no farm poundage quota has been established. Generally, where possible, the support rate for both quota and additional peanuts must be announced by February 15 of the relevant calendar year involved in the planting of the crop.

If a peanut producer markets the producer's quota peanuts crop through a marketing association loan 2 years in succession, and declines a written purchase offer for each crop from a handler where the offer is at or above the quota loan rate, the producer will be ineligible for quota price support for the following marketing year.

### Loan Pools

Regional grower associations help facilitate the administration of the peanut program. These associations

keep records of quota and additional marketings, arrange warehousing for CCC loan peanuts, and operate the price support loan program. To get the support price, a grower places peanuts in storage arranged by the regional association. Once this is done, the grower no longer has control of the peanuts. They are part of a pool controlled by the association and the CCC. Growers with peanuts in the pool are potentially eligible for dividend payments if association revenues from selling the peanuts in the pool exceed the loan and related costs of the peanut program. However, subject to certain restrictions, if other regional pools experience losses from pool operations, profits made in one pool may be used to offset the losses of the other pools.

### **Quota Pool Losses**

The 1996 Act sets up a prioritized method of covering quota pool loan losses under which gains within an area's pools are used first to offset, or cover, an area pool's losses, followed by use of producer marketing assessments in the pool, followed by gains from pools in other areas, followed by use of the handler marketing assessment. If these actions fail to eliminate the loss, then the assessment on producers of quota peanuts in the production area covered by the pool is increased.

### **Marketing Assessments**

The 1996 Act continues a nonrefundable marketing assessment. The total assessment per pound is 1.15 percent of the applicable loan rate for the 1996 crop, and 1.2 percent of the loan rate for each of the 1997 through 2002 crops. In a private sale by the producer to wholesale dealers, the first purchaser must collect from the producer a portion of the assessment equal to 0.6 percent of the applicable national average loan rate for the 1996 crop, and for the 1997-2002 crops, a portion equal to 0.65 percent of the applicable national average loan rate. The purchaser is then required to remit the total assessment to the Government, providing the additional amount of the assessment from the purchaser's own funds. For peanuts placed under loan, the producer's portion of the assessment is held back from the loan proceeds, and the remainder is remitted by the party purchasing the peanuts from loan inventory. In the case of private marketings by producers directly to consumers, or for sales outside the continental United States, the producer is responsible for the entire amount of the assessment.

Marketing assessments generally can be used, and can be increased, to offset loan pool losses remaining after pool offsets, thereby ensuring that the Government loses no principal or interest on the loan operations. Any increased marketing assessment applies to quota peanuts produced in the pool areas with a loss.

### **New Mexico Pool**

For the 1996 and subsequent crops of peanuts, Valencia peanuts not physically produced in New Mexico may only be placed in the New Mexico pools by a previously qualified Texas producer, and only up to the amount, on an annual basis, that equals the average annual quantity of peanuts that the producer placed in the New Mexico pools for the 1990 through 1995 crops.

### **National, State, and Farm Poundage Quotas**

The Secretary must establish a national poundage quota for each marketing year 1996-2002 at a level equal to estimated domestic edible and related uses. Seed use is no longer a component of the basic quota determination. The minimum national poundage quota prescribed in the 1990 Act (1,350,000 short tons) has been abolished. The new quota determination formula is designed to be a chief mechanism for avoiding costs due to peanut loan forfeitures.

As to seed, however, temporary allocation of quota will be made to all peanut producers for each of the 1996-2002 marketing years. The temporary allocation shall be in addition to the farm poundage otherwise established for the farm. This provision addresses additional-peanut producers' complaints concerning the required use of the higher priced quota peanuts for their peanut planting seed.

Beginning with the 1998 crop, the Secretary shall not establish a farm poundage quota for a farm owned or controlled by a municipality, airport authority, school, college, refuge, or other public entity (except by a university for research purposes); or a person who is not a producer and who resides in another State. Any quota held by such entities at the end of the 1996 marketing year shall be allocated to other farms in the same State. The 1996 marketing year ends on July 31, 1997.

## **Undermarketings**

Under the 1990 Act, a producer's undermarketings of quota peanuts from a previous year's quota allocation could be carried forward and used to increase the producer's quota. The national total of these undermarketings in a particular year could not exceed 10 percent of the announced national quota. The 1996 Act eliminates the undermarketings carryover allowance. That is, if a producer fails to produce sufficient peanuts to market the farm's quota for a particular marketing year, the producer may no longer carry the undermarketings forward and thereby overmarket the farm's basic quota for the following year.

## **Sale, Lease, or Transfer of Farm Poundage Quotas**

Subject to some restrictions, the owner of a farm (or the operator of a farm who has the permission of the owner) in a State for which a farm poundage quota has been established may sell or lease part or all of the poundage quota for that farm to the owner or operator of another farm in the State. The restrictions of the 1990 Act limiting, in most instances, intra-State transfer or sale of quotas to other farms within the same county are relaxed by the 1996 Act. The new law will permit, ultimately in all States, an aggregate of at least

40 percent of the total quota poundage within all counties (as of January 1, 1996) to be transferred outside the county. The 40-percent limit for counties subject to the limit is achieved incrementally, with total transfers limited to a maximum of 15 percent for the 1996 crop, 25 percent for the 1997 crop, 30 percent for the 1998 crop, 35 percent for the 1999 crop, and 40 percent for the 2000 through 2002 crops. Counties in States with less than a 10,000-ton State quota that previously had unlimited inter-county transfer, will still have no limits on such transfers. Further, even in large-quota States where counties are generally limited to 40 percent inter-county transfers, unlimited inter-county transfers will be allowed out of the counties with less than 100,000 pounds of quota.

## **Disaster Transfers**

Disaster transfers of additional peanuts to the quota loan pool for pricing purposes due to the failure of sufficient quota production on a farm may not exceed 25 percent of the total farm quota pounds, excluding pounds transferred by a Fall transfer, and will be supported only at 70 percent of the quota support rate. Under the 1990 Act, 100 percent of the quota poundage could be transferred at 100 percent of the quota support rate minus certain limited deductions.

## Subtitle D

# Other Commodities

## Chapter 2—Sugar

Ron Lord

The 1996 Act continues a loan program for sugar, with loan rates fixed at the 1995 levels for both refined beet and raw cane sugar. Loans can be recourse or nonrecourse, depending upon the import restriction level. When loans are nonrecourse, there is a penalty on borrowers for using the loan forfeiture option—effectively reducing the level of support by 1 cent per pound. Domestic marketing controls on sugar and crystalline fructose are suspended. Sugar marketing assessments are increased, from slightly less than one-fifth of a cent per pound, to slightly over one-fourth of a cent per pound.

### Sugar Loan Program Modified

In a change from the 1990 Act, sugar loans will be issued as recourse loans instead of nonrecourse loans unless sugar import tariff-rate quota (TRQ) is set higher than 1.5 million short tons, raw value. If the TRQ is raised higher than 1.5 million tons during the year, then sugar loans are converted to nonrecourse loans, which means that when the loan matures, the Government must accept the sugar pledged as collateral as payment in full, in lieu of cash, at the option of the processor. Nonrecourse loans can effectively support the price of sugar in the market. With recourse loans, the Government requires full cash repayment of the loan at maturity, regardless of the current price of sugar; loan forfeiture is not an option for settling loan obligations. Recourse loans would not support the market price of sugar. Once the TRQ has been set above 1.5 millions tons, all loans in that year will be nonrecourse, regardless of subsequent events.

Sugar loan rates are unchanged from the 1995 levels—18 cents a pound, raw value, for raw cane sugar, and 22.90 cents a pound for sugar beets. These rates apply to each crop year from 1996 through 2002 (fiscal years 1997-2003). Previously, the beet sugar loan rate was

adjusted each year by formula in relation to the cane sugar loan rate. Loans are made by the CCC to sugar processors who store the processed product (sugar) as collateral, since the raw agricultural crop (sugarcane or sugar beets) loses value rapidly if stored for any length of time in unprocessed form. A commodity under CCC loan must be stored at producer/processor expense during the term of the loan.

As before, sugar loans expire at the end of 9 months, or the end of the fiscal year (September 30), whichever comes first. Loans made during the last 3 months of a fiscal year (July through September) are paid off at the end of the fiscal year, and a second loan, which matures in 9 months less the number of months which the first loan was in effect, may be acquired.

### Reduction in Loan Rates

The Secretary shall reduce the U.S. sugar loan rates if certain other major producing and exporting countries reduce their export and domestic subsidies for sugar more than already agreed upon in the GATT Uruguay Round. The new rates must be at least as high as the level of support in the other countries.

### Forfeiture Penalty

If sugar loans are nonrecourse and a processor forfeits collateral (sugar) to the CCC, the processor must pay a penalty of 1 cent per pound in the case of raw cane sugar. For refined beet sugar, the penalty for forfeiting sugar is 1.072 cents a pound. This provision has the impact of reducing the market price at which a processor has an economic incentive to forfeit the collateral of a nonrecourse loan, thereby reducing the effective level of price support by about 1 cent per pound.

## **Processor Assurances**

As before, in any year during which nonrecourse loans are in effect, processors who obtain a nonrecourse loan must agree to pay farmers an amount for their sugar beets or sugarcane that is proportional to the loan value of sugar. USDA is authorized to establish minimum sugar beet or sugarcane prices per ton that processors must pay growers.

## **Marketing Assessment Raised**

Beginning with fiscal 1997, sellers of domestic raw cane sugar must pay an assessment of 0.2475 cents per pound, raw value. Sellers of domestic refined beet sugar must pay an assessment of 0.2654 cents per pound. These assessments are 25 percent higher than under previous legislation, and will likely raise about \$40 million a year for the Federal Treasury. The penalty for not paying the assessment is the loan value of the quantity of sugar involved. Assessments do not apply to imported sugar.

## **Domestic Sugar Marketing Allotments Suspended**

Domestic marketing allotments on sugar and crystalline fructose from the prior law are suspended. The only remaining government tools for supporting the price of sugar through 2002 are import restrictions and commodity loans.

## **Tariff Rate Quota Unaffected**

The 1996 Act does not change the Harmonized Tariff Schedule (HTS) of the United States, as amended by the Presidential Proclamation to implement the GATT Uruguay Round Agreement on Agriculture. The HTS

authorizes the Secretary to limit the quantity of sugar that can be imported at the lower of two alternative duty rates (chapter 17, additional U.S. note 5). The amount of raw cane sugar subject to the lower duty rate must be no less than 1,117,195 metric tons in a fiscal year. The minimum low-duty quantity of refined sugars is 22,000 metric tons per fiscal year. The amount of sugar allowed to enter at the lower duty rate is often termed the tariff-rate quota, or TRQ, and the minimum TRQ's for raw and refined sugar add up to 1.256 million short tons raw value of sugar a year. The TRQ's are important to the sugar program as a key mechanism for restricting total supply and thereby supporting the U.S. sugar price. Other tariff-rate quotas also apply to certain sugar-containing products.

## **Reporting Requirements**

Exactly as in previous legislation, monthly reporting on production, importation, distribution, and stocks of sugar is required of sugarcane processors, cane sugar refiners, and sugar beet processors. Purchases of sugarcane and sugar beets must also be reported. A civil penalty of \$10,000 will apply for each reporting violation.

## **No-Cost Provision Ineffective**

The 1985 Farm Bill included a provision mandating the President to use all available authorities to operate the sugar program established under Section 206 of the Agricultural Act of 1949 at no cost to the Federal Government. This was to be accomplished by preventing the accumulation of sugar acquired by the CCC, which could be done by adjusting import quotas or employing domestic marketing quotas, for example. Since section 206 of the 1949 Act was repealed by section 171 of the 1996 Act, the above no-cost provision no longer refers to the current sugar program, and is, therefore, no longer effective.

## **Subtitle E**

# **Administration**

Bryan Just and Linwood Hoffman

The Secretary is directed to carry out title I of the Agricultural Market Transition Act (AMTA) through the Commodity Credit Corporation (CCC). In addition, this subtitle gives the Secretary authority to make loan rate adjustments, increases the interest rate applicable to commodity loans by 1 percentage point, establishes conditions for personal liability for commodity loans, and sets CCC sales price restrictions.

### **Administration Through the CCC**

The Secretary shall carry out provisions of the AMTA through the CCC and must implement necessary regulations not later than 90 days after enactment of the 1996 Act (these regulations were published in the Federal Register on July 18, 1996). Determinations made by the Secretary under the AMTA shall be final and conclusive.

### **Adjustment of Loans**

The Secretary may make adjustments in loan rates for any commodity based on differences in grade, type, quality, location, and other factors. However, the national average loan rate cannot be changed by variations caused by this adjustment. The Secretary may establish loan rates for individual counties, whereby no county loan rate is less than 95 percent of the national average loan rate. However, use of the discretionary 95 percent rule shall not result in an increase in outlays and shall not result in an increase in the national average loan rate for any year.

### **Commodity Credit Corporation Interest Rate**

The monthly CCC interest rate for commodity loans shall be 1 percentage point greater than the rate determined under the applicable formula in effect on

October 1, 1995; that is, the interest rate shall be 1 percentage point greater than the cost of funds obtained from the Treasury.

### **Personal Liability of Producers for Deficiencies**

Producers are not responsible for CCC losses from the sale of commodities acquired by the CCC under commodity loan programs, unless the loan was obtained through fraudulent representation by the producer. However, the producer is liable for: (1) deficiencies in grade, quality, or quantity of a commodity stored on a farm or delivered by the producer; (2) failure to properly care for and preserve a commodity; and (3) failure or refusal to deliver a commodity in accordance with a program established under the AMTA.

If the CCC acquires title to the unredeemed collateral, the CCC is under no obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

### **CCC Interests in Sugar Protected**

CCC interests in raw cane sugar and refined beet sugar used as security for a commodity loan are protected by a provision making CCC claims superior to any other lien on the sugar or on the crops from which the sugar was derived.

### **Commodity Credit Corporation Sales Price Restrictions**

The 1996 Act provides the CCC with greater flexibility in managing inventories through sales than it had under previous law (as specified in the 1949 Act, as amended). The main restriction on the CCC sales prices now is that the CCC may sell any commodity

owned or controlled by the CCC at any price determined by the Secretary that will maximize returns to the CCC. This required maximization-of-returns restriction on sales prices does not apply in several specified cases (listed below).

These same specified cases were also used in the previous law to make exceptions to the then current sales price restrictions. The restrictions in the previous law were that sales prices could not be less than certain specified percentages of the commodity loan rate or repayment rate. When the Farmer-Owned Reserve was in effect for a commodity, for example, sales prices could not be less than 150 percent of the loan rate.

### **Specified Cases for Exemption From Restrictions**

Sales price restrictions do not apply to: (1) sale for new or byproduct uses, (2) sale of peanuts or oilseeds for oil, (3) sale for seed or feed if the sale will not substantially impair any loan program, (4) sale of a commodity that has substantially deteriorated in quality or is in danger of loss or waste through deterioration or spoilage, (5) sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other

wrongful act with respect to the commodity, (6) sale for export, and (7) a sale for other than a primary use. The exemption means, for example, that the CCC may sell commodities for these purposes at less than their market value rather than at prices that maximize returns.

### **Disaster and Distress Exemption**

As in the previous law, the CCC may make available any owned or controlled commodity for relieving economic or major disaster distress as declared by the President. In these situations, the CCC shall make quantities available on terms and conditions the Secretary considers in the public interest, but the CCC shall not bear any nonreimbursable costs other than those for storage, handling, and transportation.

### **Efficient Operations Exemption**

CCC sales restrictions also do not apply to sales that are desirable in the interest of effective and efficient CCC operations because of age or storability of the commodity or because of small quantities involved. This exemption was also implicit in the previous law, except that there was a provision for offsetting purchases by the CCC if the sale would substantially impair the operation of price support programs.

## Subtitle F

# Permanent Price Support Authority

Bryan Just and Linwood Hoffman

Certain agricultural commodity program provisions of two past farm acts are considered “permanent,” because such provisions do not have a specified termination date. These acts are the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949. These permanent statutory provisions, as amended over the years, would dictate how commodity programs could be implemented for 1996 and beyond, unless steps were taken to amend, suspend, or repeal parts of them.

The 1996 Act temporarily suspended some of the permanent provisions of the 1938 and 1949 Acts, as previously amended, repealed others, and amended still others. Other permanent provisions were left unchanged and thereby apply to current programs (for example, the tobacco program). Some provisions of the 1938 and 1949 Acts, as previously amended, that were not permanent (they had termination dates specified) are also affected by suspensions and repeals under subtitle F.

## Agricultural Adjustment Act of 1938

### Suspensions

- **Allotments and quotas.** Acreage allotments for corn, wheat, and cotton; marketing quotas for corn, wheat, cotton, and rice (parts II through V of subtitle B of title III (7 U.S.C. 1326-1351)).
- **Peanuts.** Marketing quotas for peanuts (subsections (a) through (j) of section 358 (7 U.S.C. 1358)); sale, lease, and transfer of peanut acreage allotments (subsections (a) through (h) of section 358a (7 U.S.C. 1358a)); marketing penalties for peanut program (subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359)); publication and review of acreage allotments and marketing quotas for peanuts (part I of subtitle C of title III (7 U.S.C. 1361—1368)).
- **Marketing quotas for sugar and crystalline fructose.** Establishes framework for sugar marketing

allotments based on imports of 1.25 million short tons, raw value, for fiscal years 1992-98 (part VII of subtitle B of title III (7 U.S.C. 1359aa—1359jj)).

- **Preservation of unused acreage allotments (in the case of upland cotton).** If planted acreage is less than allotment acreage, under planted acreage will be considered planted in subsequent years if the owner/operator notifies the county committee within 60 days before the new marketing year (section 377 (7 U.S.C. 1377)).
- **Cotton pool participation trust certificates** (title IV (7 U.S.C. 1401-1407)).
- **Wheat marketing allocation and marketing certificates** (subtitle D of title III (7 U.S.C. 1379a—1379j)).

### Reports and Records

For the 1996-2002 crops of peanuts, the Secretary continues to have the authority to request from persons and firms engaged in the production of peanuts, as well as those involved in the processing, transporting, or selling of peanuts, information needed to implement peanut marketing quotas and price supports. An amendment to the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) provides this authority.

## Agricultural Act of 1949

### Suspension of Permanent Provisions

- **Parity price support formulas for tobacco, peanuts, corn, wheat, rice, and cotton** (section 101 (7 U.S.C. 1441)).
- **Parity price support.** Feed grain program—parity price support for corn and other feed grains (section 105 (7 U.S.C. 1444b)); wheat program—parity price support for wheat (section 107 (7 U.S.C. 1445a)).

- **Nonbasic agricultural commodities.** Price support levels for designated nonbasic agricultural commodities. Price support for oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and other oilseeds as the Secretary may determine.); honey; sugar beets; and sugarcane; and parity price support for milk (section 201 (7 U.S.C. 1446)); parity price support formulas for other nonbasic agricultural commodities (title III (7 U.S.C. 1447-1449)).
- **Parity price support for cotton** (section 103(a) (7 U.S.C. 1444(a))).
- **Farmer-Owned Reserve Program.** Storage program for wheat and feed grains when supplies are abundant and to ensure adequate carry-over stocks (section 110 (7 U.S.C. 1445e)).
- **Agricultural Commodities Utilization Program.** The Secretary may permit set-aside acreage to be planted to a commodity (other than the set-aside commodity) for conversion into industrial use (section 112 (7 U.S.C. 1445g)).
- **Commodity certificates.** Payments under annual programs for wheat, feed grains, upland cotton, or rice may be with grain delivery, negotiable warehouse receipts, negotiable certificates, or other appropriate method (section 115 (7 U.S.C. 1445k)).
- **Miscellaneous.** Price support, commodity loan operations, CCC operations, amendments, 1990 deficiency payment reduction (sections 401-403, 405, 407-411, 413-415, 417-423 of title IV (7 U.S.C. 1421-1433d)).
- **Emergency Livestock Feed Assistance Act of 1988.** Initiated as an amendment to the 1949 Act, the Emergency Feed Assistance Act provided for the preservation and maintenance of livestock in areas where natural disasters create a livestock emergency (title VI (7 U.S.C. 1471-1471j)).

### Suspension of Nonpermanent Provisions

- **Crop acreage base and program payment yield system applicable to the 1991-97 crops of:** wheat, feed grains, upland cotton, and rice (title V (7 U.S.C. 1461-1469)).

### Repeal of Nonpermanent Provisions

- **Price support loans, loan deficiency payments, target price/deficiency payments, and acreage reduction programs for the 1991 through 1995 crops of rice** (section 101B (7 U.S.C. 1441-2)); **feed grains (includes rye)** (section 105B (7 U.S.C. 1444f)), and **wheat** (section 107B (7 U.S.C. 1445-3a)) and the **1991 through 1997 upland cotton crops** (section 103B (7 U.S.C. 1444-2)).
- **Price support program (quota and support rates) for the 1991 through 1997 crops of peanuts** (section 108B (7 U.S.C. 1445c-3)).
- **Supplemental set-aside and acreage limitation authority.** The Secretary may implement an acreage limitation program for one or more of the 1991 through 1995 crops of wheat and feed grains if the action is in the public interest as the result of export restrictions (section 113 (7 U.S.C. 1445h)).
- **Land diversion payments and timing of deficiency payments (1991-97).** Under an acreage limitation program, the Secretary may make up to 50 percent of the payment available to the producer as soon as possible after the producer agrees to divert the land in return for payments. Advance deficiency payments are available to producers (subsections (b) and (c) of section 114 (7 U.S.C. 1445j)).
- **Other price support.** Nonrecourse loans and loan deficiency payments for oilseeds (soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and other oilseeds as determined by the Secretary) for the 1991 through 1997 marketing years; sugar beet and sugarcane price support for the 1991 through 1997 crops; honey price support through loans and purchases for 1991 through 1998, Sections 205, 206, and 207 (7 U.S.C. 1446f, 1446g, and 1446h).
- **Option to announce 1996 program provisions based on 1995 provisions** (Sec. 406(b) (7 U.S.C. 1426 part)).

### Repeal of Permanent Provisions

- **Announcement of price support levels prior to the start of planting season** (Sec. 406(a) (7 U.S.C. 1426 part)).

- ***Crop insurance purchase requirement for 1995 and subsequent crops*** (Sec. 427 (7 U.S.C. 1433f)).

### **Potential Price Support for Rice**

The current level of price support for rice under a new permanent provision established by the 1996 Act would be, except for the fact that it is also suspended under the 1996 Act, "... not less than 50 percent, or more than 90 percent of the parity price for rice as the Secretary determines will not result in increasing stocks of rice to the Commodity Credit Corporation," (section 171 (e)).

### **Suspension of Certain Quota Provisions**

The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended," approved May 26, 1941 (7 U.S.C. 1330 and 1340),

shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002. This suspended resolution specifies some procedures to use in implementing marketing quotas and related penalties for wheat, which will not become relevant unless marketing quotas become effective.

### **Other**

Except where specifically provided, the effect of this title and any amendments shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops. This title or any amendments shall not affect the liability of any person under any provision of law in effect before the enactment of this act. The tobacco program authorized by the 1949 Act (sections 106, 106A, 106B) was not changed by the 1996 Act.

## Subtitle G

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# Commission on 21st Century Production Agriculture

Linwood Hoffman

A new commission called the Commission on 21st Century Production Agriculture must conduct a comprehensive review of effects of the Agricultural Market Transition Act (AMTA), the future of production agriculture, and the appropriate role of the Federal Government in production agriculture. The Commission's reports are to be submitted to Congress by June 1, 1998, and January 1, 2001.

### Composition of Commission

An 11-member commission is to be established by October 1, 1997, with 3 members appointed by the President, 4 members appointed by the Chairman of the Committee on Agriculture of the House of Representatives, and 4 members appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate. Both committee chairs must consult with their ranking minority member on the membership decisions.

### Comprehensive Review of Future Production Agriculture Under the AMTA and the Role of Government

The Commission shall conduct an initial comprehensive review of changes in the condition of production agriculture in the United States since the date of enactment of the AMTA and the extent to which the

changes are the result of the AMTA. This review shall include an assessment of production flexibility contracts, economic risks to farms by size of operation, U.S. food security situation, changes in farmland values and producer incomes, regulatory relief, tax relief for farmers, effects of Federal Government interference in agricultural export markets, and likely effect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines. The report on this initial review is due June 1, 1998.

A subsequent review, with recommendations for legislation, shall be completed by the Commission by January 1, 2001, on the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include an assessment of changes in the condition of production agriculture in the United States since the initial review, appropriate future relationships of the Federal Government with production agriculture after 2002, personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture, and economic risks to farms delineated by size and location of farm operation. This review will include recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture. The Commission shall terminate on submission of the final report.

## Subtitle H

# Miscellaneous Commodity Provisions— Options Pilot Program, Crop Insurance, and Risk Management

Joy Harwood

Miscellaneous commodity provisions in this part of title I address risk management issues in various ways. First, some provisions are aimed at helping producers learn more about futures markets, insurance programs, and other risk management tools—through an Options Pilot Program and through risk management education. Second, the 1996 Act modifies the crop insurance program by: (1) restricting the delivery of catastrophic coverage (CAT) policies by local Farm Service Agency (FSA) offices to those areas where there are not enough private insurers to provide sufficient service, (2) eliminating the mandatory linkage between crop insurance and other farm programs for producers who waive emergency crop loss assistance, (3) establishing an independent Office of Risk Management within the Department of Agriculture, and (4) mandating various pilot insurance programs.

### Options Pilot Program

The 1996 Act states that the Secretary may offer a pilot program for one or more agricultural commodities supported under title I to ascertain whether or not futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of commodities. The pilot is to be an alternative to other related programs of the U.S. Department of Agriculture. The pilot may not be operated in more than 100 counties for any eligible crop. No more than six counties may be located in any one State, and it shall not be operated in any one county for more than three of the 1996 through 2002 crop years.

Under the pilot, the Secretary may enter into a contract with a producer who: (1) is eligible for a production flexibility contract, marketing assistance loan, or other assistance under title I, (2) volunteers to participate,

(3) operates a farm located in a county selected for the pilot, and (4) meets other requirements that the Secretary may establish. The Secretary shall fund and operate the options pilot program through the Commodity Credit Corporation. To the extent possible, the program is to be budget neutral.

This options pilot program language in the 1996 Act is similar to that in the 1990 Act. Under the 1990 Act, the options pilot program was to be carried out in selected counties for the 1991 through 1995 corn crops and the 1993 through 1995 crops of wheat and soybeans. The 1996 Act repeals the options pilot program language in the 1990 Act.

### Risk Management Education

In consultation with the Commodity Futures Trading Commission, the 1996 Act states that the Secretary shall provide producers with education in managing the financial risks inherent in the production and marketing of agricultural commodities, as the Secretary considers appropriate. The Secretary also may develop and implement programs to facilitate the participation of producers in futures trading programs, forward contracting options, and insurance protection programs. Existing research and extension authorities and resources of the Department may be used in providing this education.

### Crop Insurance

The 1996 Act amends the Federal Crop Insurance Act, the permanent legislation for crop insurance. The 1996 amendments modify certain provisions of the amendments made by the Federal Crop Insurance Reform Act of 1994 (the 1994 Act), which was in effect for 1995 crops.

The 1994 Act provided a major overhaul of the Federal crop insurance program. For example, the 1994 Act provided catastrophic (CAT) insurance coverage for a minimal (\$50 per crop) processing fee. CAT coverage was enacted to supplant ad hoc disaster assistance, which had been funded under statutory authorities. These authorities were repealed by the 1994 Act. The 1994 Act linked the purchase of at least CAT coverage for economically significant crops to eligibility for program benefits under annual commodity programs, certain loan programs, and renegotiated Conservation Reserve Program (CRP) contracts. Producers could also purchase additional coverage, with higher yield and price protection, for a flat fee per crop (at either \$10 or \$50, depending on the level of coverage) plus a subsidized premium.

The 1994 Act also instituted the Noninsured Assistance Program (NAP) for crops that are not currently insurable. Producers do not pay premiums under NAP, but loss triggers for both an area and an individual farm must be met for a producer to receive a payment. CAT coverage and NAP are designed to reduce the need for ad hoc disaster assistance. Prior to the 1994 Act, an implicit dual system of crop insurance and ad hoc disaster assistance programs was in place, which was considered to be costly and inefficient.

### **Delivery by Private Insurers**

Under the 1994 Act, CAT coverage could be delivered either through private insurance companies or local Farm Service Agency (FSA) offices. The 1996 Act restricts delivery of CAT policies by local FSA offices to those States or portions of States having an insufficient number of private insurers to provide adequate service to producers. To determine these areas, the Secretary is to consult with private insurers. The 1996 Act thus requires proof of need before local FSA offices are used.

The affected areas must be determined and announced for 1997 crops within 90 days after the enactment of the 1996 Act, and for subsequent crops, by April 30 (or such other time as practicable) of the year preceding the year of harvest. CAT policies currently delivered by local FSA offices in these areas are to be transferred to private insurers for the performance of all sales, service, and loss adjustment functions beginning with 1997 crops.

### **Delinking Crop Insurance and Other Program Benefits**

Under the 1996 Act, producers will no longer be required to purchase at least CAT coverage in order to

receive benefits associated with production flexibility contracts, the Conservation Reserve Program, or other specified programs. Producers must, however, waive eligibility for emergency crop loss assistance for a crop if they do not purchase crop insurance. These provisions are effective for 1996 spring-planted crops and subsequent crops, and, at the option of the Secretary, for 1996 fall-planted crops.

### **Extended Sales Closing and Cancellation Dates for 1996 Only**

The 1996 Act requires the Secretary to allow producers of 1996 spring-planted crops to obtain CAT coverage for spring-planted 1996 crops, and limited and additional coverage for malting barley under the Malting Barley Price and Quality Endorsement for at least 2 weeks—but not more than 4 weeks—after the enactment of the 1996 Act. This coverage is not to be effective until 10 days after the application is received from the producer. The language is designed to prevent producers from signing up if they believe that a crop loss is imminent. The Federal Crop Insurance Corporation (FCIC) may attach limitations and restrictions on obtaining insurance during this period to maintain the actuarial soundness of the crop insurance program.

During this extended period (2 to 4 weeks), a producer may cancel a CAT policy if: (1) the policy continues a policy that was obtained in 1995, and (2) the cancellation request is made before the acreage reporting date for the policy for the 1996 crop year, if the acreage reporting date occurs during this extended period.

### **Crop Insurance Pilot Projects**

The 1996 Act also directs the Secretary to conduct two crop insurance pilot programs. The first pilot program will provide crop insurance coverage that pays indemnities to producers for qualifying crop losses caused by insect infestation and diseases. This pilot program is to be actuarially sound, administered at no net cost to the Government, and in effect for at least 2 years. The FCIC currently covers losses due to insects and diseases in a variety of circumstances.

For the second pilot program, the FCIC is directed to conduct a study and a pilot program on the feasibility of insuring nursery crops. The FCIC currently insures containerized nursery crops. There is no current policy for in-ground nursery, foliar plants, cut flowers, or other nursery crops, although background research has been conducted.

## **Marketing Windows and Replanting Requirements**

The 1996 Act directs the FCIC to consider “marketing windows” in determining whether it is feasible to require the planting or replanting of crops during a crop year. A marketing window refers to the time during which a crop can be most profitably marketed because of reduced competition from other growing areas. This language is particularly important to growers in the South who insure specialty crops (such as tomatoes and peppers), and who currently are required to replant their crops in the event of an early-season crop failure. Growers in these situations who replant the same crop often face low prices at harvest-time because they are in direct competition with more northern growers. This provision also affects contract growers of processing crops, such as green peas, sweet corn, and snap beans.

## **Funding of Crop Insurance Sales Commissions and the NAP**

The 1996 Act modifies the restriction in the 1994 Act regarding the extent to which sales commissions can be funded from the FCIC Fund (mandatory account) to compensate agents in private insurance companies who deliver crop insurance policies to producers. Specifically, the 1994 Act states that payments for sales commissions to agents from the FCIC Fund (the mandatory account) may not exceed 8.5 percent of the total premium paid for additional insurance coverage for the 1997 reinsurance year. The change in the 1996 Act permits the reimbursement of administrative expenses to private insurance companies (including agent commissions) to be paid entirely through the mandatory account in 1997. There is no longer a potential split in outlays for reimbursements to private companies between the mandatory and discretionary accounts in 1997.

The 1996 Act also directs that funding for the NAP will be through the Commodity Credit Corporation rather than the FCIC Fund. This change makes funding sources consistent with the administering agency. NAP will continue to be administered by the Farm Service Agency, while crop insurance will be administered by the newly independent Office of Risk Management (see below).

## **Risk Management**

### **Establishment of Office of Risk Management**

The Secretary is directed to create in the Department an independent Office of Risk Management to supervise and administer crop insurance and other risk management programs. Such programs will, therefore, be independent and separate from the Farm Service Agency, which will continue to administer commodity programs, selected conservation and credit programs, and NAP. The Office of Risk Management will have jurisdiction over the following functions: supervision of the Federal Crop Insurance Corporation; administration and oversight of all aspects of all programs authorized under the Federal Crop Insurance Reform Act of 1994; any pilot or other programs involving revenue insurance, risk management savings accounts, or the use of the futures markets to manage risk and support farm income; and other functions considered appropriate by the Secretary. The administrator of the Office of Risk Management is to be appointed by the Secretary.

### **Revenue Insurance**

The Secretary is directed to carry out a pilot program for crop years 1997, 1998, 1999, and 2000 that provides producers with insurance against a loss in revenue. The pilot is to be carried out in a limited number of counties, and is to be available for wheat, feed grains, soybeans, or other commodities as the Secretary considers appropriate. The revenue insurance pilot is to: be offered through reinsurance arrangements with private insurance companies, offer at least a minimum level of coverage that is an alternative to CAT coverage, be actuarially sound, and require the payment of premiums and administrative fees by an insured producer.

The 1994 Act mandated a pilot cost of production risk protection program that, in effect, was revenue insurance. The resulting 1996 FCIC pilot program, “Income Protection,” uses threshold trigger levels based on a producer’s average historical yield and a spring-time price for the harvest-time futures contract. It pays indemnities if the producer’s gross income (as measured by the product of the producer’s realized yield and the harvest-time futures price) falls below a prede-

terminated level. This pilot was offered for selected spring-planted crops (spring wheat, corn, soybeans, and cotton) in 1996 in selected counties. In addition, a private company introduced “Crop Revenue Coverage” in the spring of 1996. It provided revenue insurance plus replacement cost protection to producers for corn and soybeans in Iowa and Nebraska in that year. Crop revenue coverage is subsidized and reinsured by the FCIC.

### **Administration and Operation of Noninsured Crop Assistance Program**

The Noninsured Crop Assistance Program (NAP) was first enacted as part of the 1994 Crop Insurance Reform Act. NAP provides yield risk protection equivalent to CAT coverage to producers who grow certain crops not currently covered by CAT. The 1996 Act generally does not change basic NAP provisions; it merely removes NAP from the Federal Crop Insurance Act and repeats it as stand-alone language in the 1996 Act. This conforms to the new procedures for separate administration of the crop insurance program and the NAP. Federal crop insurance is now administered by the Office of Risk Management and is funded by the

FCIC Fund. The NAP is now administered by the Farm Service Agency and funded through the Commodity Credit Corporation.

**Eligible Crops.** NAP provides yield risk protection to producers who grow commercial crops or other agricultural commodities (except livestock) not currently covered by CAT. Eligible crops include those used as food or fiber, floriculture, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops. Seed crops and ornamental fish were not covered in the past because they were not classified as food or fiber and were not included in the 1994 Act’s list of exceptions. Aquaculture was covered under the 1994 Act, but ornamental fish were not covered.

**Payment of Indemnities Under NAP.** Payments under the NAP shall be made, as before, when both area and individual yield loss triggers are met. NAP requires that there be an area-wide yield loss of greater than 35 percent before producers in that area are eligible for payments. Then, if an individual producer realizes a yield loss of greater than 50 percent, a payment equivalent to the payment made under CAT crop insurance coverage may be made.